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Outcome of Commercial Property Case Critical

Montana local governments, already plagued by the dual effects of sharply rising costs induced by inflation and a relatively static revenue production, face the prospect of additional complications depending on the outcome of a lawsuit challenging the state's current method of appraising commercial property. The case affects millions of property tax dollars, and the decision will affect a majority of the state's counties, municipalities, school districts and other local taxing jurisdictions.

The Case: Background and Issues

The lawsuit, sometimes referred to as the Countryside Village Case concerns whether the procedures used by the Department of Revenue are discriminatory and will be settled by the State Supreme Court.

The case involves 37 parcels of commercial property in Cascade County whose owners appealed their taxes to the county tax appeals board during the summer of 1978. The owners contended that their property was discriminated against because a different manual and a different years's costs were used in determining the value of residential property in the same class (11th). The Department of Revenue was in fact using two manuals: (1) a 1972 State Appraisal Manual for residential property appraisals based on 1971 cost indicators compiled by the State Board of Equalization and (2) the 1976 edition of cost indicators from the Marshall Valuation Service for commercial property.

The Cascade County Tax Appeals Board denied the appeal:

> We have made comparisons on the actual sale price of property assessed under both manuals and are not convinced that the use of the 1976 manual unjustly discriminates against commercial property, because the ratio of the appraised value to the actual sale price compared favorably in both manuals. Therefore we feel that the appraisal of your property is fair and equitable.

The Cascade County decision was appealed to the State Tax Appeals Board (STAB). After a rehearing of the case STAB reached the following conclusions:

1. Improvements to commercial and residential property are included within class eleven of the state's property classification system and there are no legal distinctions between kinds of improvements.

2. Under an existing State Supreme Court decision similar properties within the same class must be valued in a "like manner."

3. Because two different values were used to appraise commercial and residential property, a "like manner" of appraising similar properties was not used resulting in discrimination against the property appraised using the 1976 values.

4. A disparity of approximately 34 percent was created by using 1971 values for improvements to residential property and 1976 values for commercial property.

5. The Department of Revenue errored in failing to apply an index factor to bring the properties appraised under the 1971 value nearer the current market value as required by law.

Based on these conclusions, on September 28, 1978, STAB overruled the decision of the Cascade County Tax Appeal Board and ordered the Cascade Appraiser to reduce the appraised value of the property in question by 34 percent.

After STAB rendered its decision in the Countryside Village Case, other commercial property-owners in Cascade County and in other counties appealed their taxes to STAB and the county appraisers were similarly

(Continued on next page . . .)

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Critical Property Case, Continued . . . .

ordered to reduce the appraised value of the improvements on that property by 34 percent in each case. In addition, STAB issued a stay order on behalf of each appellant which authorized the appellant to pay taxes on only 66 percent of the current appraisal on improvements to the commercial property in question. The Department of Revenue appealed the STAB decision in the Countryside Village case to the District Court in Great Falls. On June 14, 1979, Judge Coder upheld the STAB decision and granted the 34 percent reduction in appraised value to each appellant. The Department of Revenue then appealed the Coder decision to the Montana Supreme Court. The case was argued before the court on February 26, 2980, and a decision is pending. STAB requested an expedited decision since the decision may directly affect another case pending in Judge Coder's court, which involves approximately 540 parcels under appeal as a result of the Countryside Village decision, and other appeals pending before STAB. The second case in the Coder court is sometimes referred to as the ADM Development case — here too, a decision is pending.

Implications

The stay orders issued by STAB have been treated differently from county to county. Some counties have ignored the stay orders and have not made the adjustments to the appraised values. In these cases, tax notices have been based on appraised values that existed prior to the STAB ruling and the property-owners have been held liable for the full amount due . In some cases property-owners have paid their taxes under protest, contesting the difference between their appraised values before and after the STAB ruling. These protested taxes have been deposited in a special fund by the county treasurer pending a resolution of the case. Other counties fully implemented the stay orders and have collected taxes from appellants based on 66 percent of the appraised value that existed at the time of the STAB ruling.

According to STAB, approximately 12 percent of the commercial property in Cascade County and 5 to 6 percent of commercial property in the state is under appeal. STAB has indicated that, if possible, it will apply the Supreme Court decision to appellants who appealed their taxes after the Department of Revenue appealed the STAB ruling to the state's highest court.

The state does not maintain central files on commercial property in Montana. Instead, each county appraiser's office maintains records on property within the county classified as "commercial." Due to that fact, it is only possible to estimate generally what the fiscal effect of a Supreme Court decision upholding the STAB ruling would be on a statewide basis. The property directly involved in the Supreme Court case affects approximately $250,000 in tax revenues for taxing jurisdictions in Cascade County. If the court's decision is to uphold the STAB ruling and to apply it to all commercial property in the state, the loss in property tax revenues would approach $10 million according to Department of Revenue estimates.

A Final Word

Since local governments are unable to anticipate revenue shortfalls of the type described above within their annual operating budgets, one effect of this lawsuit will be to reduce each affected entity's reserved cash balance in each levied fund. Other factors, such as inflation, an escalating property tax delinquency rate, and other pending lawsuits in which taxes have been paid under protest, have already conspired to reduce reserved cash balances. Consequently, in the upcoming budget process, local government officials may wish to pay special attention to the question of maintaining or increasing fund cash reserves.

For further information regarding the Countryside Village Case or for a description of procedures which local government can use to determine the potential loss in tax revenues if the STAB ruling is upheld, contact:

David Wanzenried
Public Management Specialist
DCA Director's Office
(telephone) 449-3494

DCA To Sponsor June Energy Conference

The Department of Community Affairs has scheduled a 2nd Energy Training Conference for June 17, 18, 19 and 20 at the Helena Civic Center.

Governor Thomas L. Judge has tentatively agreed to give the introductory address from 9:00 - 9:30 a.m. on Tuesday, June 17, 1980.

The conference will serve several purposes:

1. To continue training for local community action energy staffs begun at the first DCA Energy Conference held in February.

2. To develop model programs to acquaint rural people with current energy conservation and alternative energy concepts.

3. To offer a medium for exchange of alternative technology knowledge, including both small business and self-help workshops and alternative technology exhibits.

4. To provide a forum for state, local and private concerns regarding pertinent energy issues.

The conference will culminate with a public display of energy products and films, and "hands-on" demonstrations in the city park across from the Civic Center.

Persons interested in attending the energy conference should contact Lois LaCroix at DCA's Community Services Division, (telephone) 449-3420.

Carter Budget Cuts Outlined

President Carter has sent Congress details on program cuts which he said will not only balance the federal budget but produce a surplus of $16.5 billion in 1981, as well.

On March 31 the President announced $15 billion in reductions to his original January budget. In addition, Carter has proposed rescissions and deferrals for fiscal 1980 totaling $2.4 billion. Both of these figures refer to "outlays," the amount of money that is actually spent by the Treasury in a given year. More indicative of how much money is available for each program is"budget authority," which is the total amount of money Congress is asked to appropriate. The chart which follows portrays Carter's proposed budget revisions, both in terms of outlays and budget authority, for programs of special interest to Montana communities.

($ in Millions)

Deferral or Reduction of New Initiatives	1980 Budget Authority	1980 Outlays	1981 Budget Authority	1981 Outlays
Energy initiative:				
Hold increase for low-income energy assistance to $600 million	—	—	-200	-200
Defer transporation programs	—601	-100	-16	-391
Reduce new EDA development financing program by 75% in 1980 and 50% in 1981	—430	-63	-389	-221
Defer new water resources construction starts	—	—	-575	-40
Other Program Eliminations, Reductions, Deferrals, and Reforms				
Department of Agriculture:				
Increase interest on loan programs (reduced net outlays)	—	-5	—	-127
Reduce water and sewer grants	-75	-4	-184	-55
Other, including reductions in watershed construction grants, grants to land grant colleges, and operating expenses	-30	-12	-173	-130
Department of Commerce:				
Eliminate EDA section 304 program (public works grants to states)	—	—	-20	-20
Department of Education:				
Reduce assistance to schools in federally affected areas (impact aid)	—	—	-105	-88
Department of Housing and Urban Development:				
Reduce community development block grant program	-153	-21	—	-92
Reduce rehabilitation loan program	-38	-14	-64	-72
Other, including reductions in home ownership assistance (sec. 235), operating subsidies for troubled housing projects, and neighborhood self-help development grants	-1	-4	-19	-29
Department of the Interior:				
Reduce land purchases by the land and water conservation fund	-251	-61	-347	-181
Eliminate urban park grants	-85	-57	-125	-46
Other, including reductions in wildlife refuge purchases, construction, and payments in lieu of taxes	-28	-22	-165	-127
Department of Justice:				
Eliminate law enforcement assistance grants	—	—	-394	-89
Department of Labor:				
Stop paying unemployment compensation based on public service employment jobs	—	—	-150	-150
Phase down Young Adult Conservation Corps	—	-23	-141	-100
Department of Transportation:				
Reduce highway obligations to $7.7 billion in 1980 and $8.5 billion in 1981 (from $8.85 billion in both years)	—	-20	—	-400
Department of the Treasury:				
Eliminate state share of general revenue sharing	—	—	-2,285	-1,714
Environmental Protection Agency:				
Defer most remaining 1980 funds for waste treatment plant construction	—	-6	—	-95
Veterans Administration:				
Suspension of direct housing loans and research programs	—	-39	-40	-126

(Continued on next page . . .)

Carter Budget Cuts, Continued . . . .

The implications of these cuts for Montana are already becoming apparent in many public sector programs. The Great Falls school system would lose almost $875,000 in federal impact aid under Carter's proposed budget. The aid constitutes payments in lieu of property taxes to help educate children of Malstrom Air Force Base personnel. If Congress sustains the proposed cuts, Great Falls taxpayers will have to make up the shortfall. Governor Judge recently stated that the proposed budget cuts will have a very severe effect on Montana's 1980 highway construction program. Under the Carter proposal, the highway construction allocation for Montana would drop from $75 million to $18.5 million. According to the Governor, this would deal a serious blow to the state's efforts to accelerate completion of the Interstate Highway System.

Montana Aeronautics Board Backs Big Sky Airlines

In an official communique to the Civil Aeronautics Board the Montana Aeronautics Board recommended Big Sky Airlines as the replacement carrier for the Frontier Airlines Twin-Otter route system now serving the communities of Glasgow, Glendive, Havre, Lewistown, Miles City, Sidney, and Wolf Point, Montana and Williston, North Dakota. Each of the affected communities also supported Big Sky.

Big Sky, a Billings based commuter airline, has proposed to serve the route with Metroliners and Cessna 402's. Real West Airlines of Fargo, N.D., also bid on the entire route, while Skycraft of Lewistown bid only on the Lewistown-Billings segment. Real West proposed twice-daily, round-trip flights, without service to Havre and Lewistown.

In its communique the board stated that it is "very concerned about the timeliness of the (CAB's) decision in this case. The necessity of having a carrier in place by late spring cannot be overemphasized due to start-up complications encountered during unpredictable fall and winter weather conditions. This will also afford the replacement carrier the advantage of summerpeak season loads."

Governor Judge added his own endorsement April 11th in a letter to the CAB:

> . . . Big Sky not only has the capability, but is prepared to initiate service immediately, and has the best opportunity to survive in the market.
>
> In addition,Big Sky is the only carrier that has been willing to work from the very onset with the communities concerned, and has continued to cooperate in meeting their needs.

Big Sky currently serves Billings, Butte, Great Falls, Helena and Missoula, the Wyoming cities of Casper, Sheridan and Cheyenne, and Boise, Idaho.

Agricultural Land Preservation Bill Dies in House

In spite of last minute efforts to mollify opponents, the U.S. House of Representatives voted 210-177 to return a major agricultural land preservation bill to the House Committee on Agriculture, thus eliminating any chance of such legislation passing this year. Before voting to return the bill, the House first eliminated $60.5 million included in the bill for demonstration grants for local programs which would have tested methods for slowing conversion of agricultural lands. The bill (HR 2551), introduced by Rep. James M. Jeffords (R-Vt.), also included a proposal for a major federal study of conversion of farmland to other uses and a requirement that federal agencies recognize state and local programs.

Opposition came from farm groups, such as the American Agricultural Movement, and the U.S. Chamber of Commerce, who viewed the bill as a first step toward a national land-use planning policy, which they believed would result in tighter government control of the use of private land.

Energy Conservation Guidance Available For Communities

According to *Local Government Funding Report,* the U.S. Department of Housing and Urban Development, Office of Neighborhoods, has published a guide to 28 federal programs which can be used for community energy conservation. The 59-page softcover book covers potential funding sources in the following areas: appropriate technology, consumer protection, housing weatherization and repair, information, non-housing assistance, and solar energy. Copies of *Compendium of Federal Programs Related to Community Energy Conservation* may be obtained, free of charge, by writing: U.S. Department of Housing and Urban Development, Office of Neighborhoods, Voluntary Associations and Consumer Protection, 451 7th Street, SW, Washington, D.C. 20410, Attn: Brad Ziff, Telephone (202) 755-0857.

The *American Planning Association News* reports that two energy hotlines have been established by the President's Clearinghouse for Community Energy Efficiency to disseminate information on energy programs. The number for information on energy conservation is 800-424-9040. The number for solar information is 800-523-2929.

Coal Board To Meet

The Montana Coal Board will be acting on five final applications totaling over $3,000,000 at its next meeting to be held in Forsyth on May 7-8, 1980. Requests include funds for new school construction, increased law enforcement and mental health services at Colstrip, as well as partial funding for the water and sewer system at the proposed new town of Spring Creek in Big Horn County.

The site of the Board meeting is the Rosebud County Library with convening times scheduled for 9:00 a.m. each day.

It's Not Too Late To Answer the Census

How many people in Montana have not yet been counted in the 1980 census, depriving their communities of benefits in the years ahead? If the answer is one, it is one too many. Fortunately, it is not too late to be counted.

Every person not counted is saying no to political representation, because census population counts are the basis for reapportionment in the U.S. House of Representatives and the Montana State Legislature. Even small numbers of persons add up when spread across an entire state. Fewer than 250 persons determined that it was Oklahoma rather than Oregon which received another congressman after the 1970 census. Those not counted are also saying no to federal tax dollars returned to communities across Montana for better police protection, better education, better roads, to more than 100 programs amounting to millions of dollars per year. The uncounted are also saying no to the opportunities for communities that census data create, such as identifying job markets and defining buying power, which attract new businesses.

Many persons who fail to answer the census do so because of their hesitancy to disclose personal information. However, by law, individual census answers must be treated confidentially. In an era when private information is sometimes abused, the Census Bureau stands out for its unblemished record. Since the modern laws on census confidentiality were passed in 1929, not once has the Census Bureau been prosecuted for violating the confidentiality of census information. Even other federal agencies do not have access to census answers, whatever their purpose. Only in the year 2052 will detailed 1980 census answers become available for historical purposes.

Persons who have not received a census form should contact their local postmaster. Persons who have not had their form picked up by a census enumerator should contact the nearest of the two 1980 Census district offices for Montana:

Bob Fitzgerald, District Manager
1980 Census
510 N. Broadway, 3rd Floor
Billings, MT 59101

Phone: 657-6080 or 6081

Steve Harper, District Manager
1980 Census
1015 1st Avenue North
Great Falls, MT 59401

Phone 727-4163

Carter Announces Coal Export Policy

The Old West Regional Commission *Bulletin* has reported that President Carter has stated that his administration will work closely with the U.S. coal industry to increase the export of domestic coal. In his State of the Union Message, the President said last summer's Tokyo Economic Summit pledged the U.S. and other western nations and Japan to increase their use of coal. "In support of the international oil strategy, the administration and the U.S. coal industry are launching joint marketing efforts to make this country a major exporter of steam coal," Carter said. "Coal exports will help us pay for our declining but costly oil imports," he added.

In a more recent development, the head of a Taiwanese trade mission stated on March 24th in Helena that the Republic of China would be interested in importing Montana coal. According to the *Great Falls Tribune*, the Chinese official noted that his country will need to import about 50 million tons of coal by 1985. The *Helena Independent Record* reported that the trade mission has already arranged the purchase of 26 million tons of coal from Kentucky, Tennessee and West Virginia under a ten-year, $900 million contract. Japan and South Korea have also voiced interest in buying coal from Montana and other western states in recent months. Governor Judge, in past comments, has predicted that it is unlikely that Montana will become a major coal exporter because of the shipping distances to the West Coast.

In a subsequent interview with the Associated Press, Mike Fitzgerald, Director of the Montana International Trade Commission, said that prospects for export of Montana coal are at least four or five years away and the most Montana could ever hope to sell to Pacific nations is less than 25 million tons a year, because of policies in those nations designed to spread the trade among Australia, Canada, South Africa and various regions of the United States. According to Fitzgerald, the potential Montana share of the market (less than 500 million tons over 20 years) would be only about 1 percent of the state's economically recoverable coal reserves.

Establishing a Capital Improvement Program

Local government capital improvement programming and budgeting emphasizes the development of a long-range plan for capital expenditures. Typical capital expenditures include purchase of land, buildings and major items of equipment, and initiation of long-term improvements which are of significant value.

Montana statutes are specific in their definition of what constitutes a capital improvement program (CIP), authorizing this type of expenditure for only those items in excess of $5,000 with an expected life of five years or more. To support a CIP, State law authorizes counties to set aside 10% of any one levy and cities up to 5% of the general all-purpose levy.

A capital improvement program lists each planned acquisition, the year purchase will begin, the expected cost for each year and the proposed method of financing (bond issues, general fund revenues or grants).

The capital improvement budget should be enacted annually, based on the details of the CIP. The actual budget authorized, however, may frequently vary from the amount programmed. Financial constraints may make it impossible to budget the entire amount or, conversely, any unexpected availability of financing may make it possible to begin projects which were scheduled for future years. Whatever the case, the CIP budget must be updated annually to reflect any adjustments arising from changes in current funding levels and to add a year of programming to replace the year just completed.

The CIP process consists generally of seven major steps which are outlined below:

(1) Establish a management policy for CIP budgeting to include such items as who will review the requests, who will be the approving authority, how many future years will be included, a calendar of events to guide each budget step, and any fiscal constraints within which the plan must operate.

(2) Prepare an inventory of all the capital assets the unit presently owns. This will help to indicate the eventual need for renewal, replacement, expansion, or retirement of some of the physical plant.

(3) Prepare a report on previously approved projects. This will indicate funding required to continue the projects or available revenues if they are completed.

(4) Perform a financial analysis to select or determine the level of affordable capital expenditures over the next several years and show its impact on the property tax rate and other governmental revenues. To do this it will be necessary to predict future revenue, operating expenditures and bonding levels.

(5) Compile and evaluate requests from the various departments or agencies. If the total amount requested exceeds available revenue, priorities must be set to bring expenditures into balance with resources.

(6) Approve a capital improvement program and adopt a budget.

(7) Monitor the program to see that expenditures are progressing as planned. If they are not, the existing plan may require annual adjustments.

In summary a CIP is a plan of future capital expenditures and available funding sources for improvements which extend over at least a five-year period. The ultimate purpose of such a plan is to anticipate major capital expenditures, provide resources for these items and avoid sudden fluctuations in capital acquisitions budgets.

For more information on the CIP process contact:

Thomas Farrell, Chief
Accounting & Management Systems Bureau
DCA Local Government Services Division
(Telephone) 449-3010

Free Management Workshops Available for Non-Profit Organizations

The Employment and Training Division of the State Department of Labor and Industry has contracted with the Montana Institute for High Technology Applications in Missoula to provide training and technical assistance to non-profit agencies in Montana. The institute has announced that two free workshops in management and financial planning for non-profit organizations will be conducted by the San Francisco-based New School for Democratic Management in June. The three-day seminars will be held in Kalispell June 6-8 at the Outlaw Inn and in Billings June 20-22 at Eastern Montana College. Course offerings at both sessions include Community Organizing, Democratic Management, Fundraising and Grants Management, and Strategic Planning. In addition, a course in marketing is planned for Kalispell while the Billings session will focus on an additional course in financial developement. Both workshops will also provide an evening panel discussion on "The American Economy Today."

For more information on the workshops, interested persons should contact:

Barbara Bonifas
Employment & Training Division
Montana Department of Labor & Industry
Capitol Station
Helena, MT 59601
(telephone) 449-5600

New Directions For Community Arts Programs

By Bill Pratt,
Montana Arts Council

As we enter the 1980's, the arts appear to be flourishing in cities and towns all across the United States. For example, there are more than 1,500 arts councils and arts service organizations throughout the country, 60 percent of them formed since 1970. State appropriations for the arts have jumped from $1.7 million to approximately $68 million in the last 12 years, and the budget for the National Endowment for the Arts has increased from $2.5 million to an administration request for its 1981 budget for $160.96 million. While Montana's appropriation for the Montana Arts Council has increased from $10,060 in 1967 to $73,388 from the General Fund and $20,000 in Coal Tax Revenue in 1980, our state ranks 50th in state arts council appropriations. This year state funds have levered almost $359,000 in National Endowment for the Arts-Office for Partnership monies which will be spent on grants to arts organizations, the Artist-in-the-Schools program, Special Projects and administration.

New centers to house the arts have sprung up in Montana communities by renovating existing structures, such as the Fox Theater in Billings, the Wilma Theater in Missoula, the Custer County Art and Heritage Center in Miles City (formerly a water treatment plant), and the Jailhouse Gallery in Hardin.

For six years, Sister Joeann Daley, part-time Director of the Community Survey of the Arts sponsoredby the Montana Arts Council, traveled over 87,000 miles visiting 70 small communities, such as Broadus, Cut Bank, Ennis, Hysham, Libby, Superior and Trout Creek. Usually spending two days in each community, she met with school and government officials, farmers, ranchers, business people and housewives. In her unique position as community liaison, Sister Joeann was able to put local people in touch with various state, regional and national arts resources. She encouraged local schools to make use of the council's services including the Artist-in-the-Schools program which provides an opportunity for school children to learn from professional poets and writers, visual artists, film and video makers. In addition, through the Council's Small Community Underwriting Assistance, towns with populations under 11,000 were given funds to help them sponsor performing arts events. Through a combination of underwriting, ticket sale revenue and support from local businesses, schools or government offices, in towns such as Broadus, Chester, Circle, Libby, Roundup and Whitefish have sponsored performances of the Montana Repertory Theater, Shakespeare-in-the-Park, the Missoula Children's Theater, the Delphi String Quartet, the Magic Movers, the Montana Chorale and others.

Sister Joeann's pioneering efforts have set the stage for an expansion of the Council's Community Arts Program. Now employing a full time co-ordinator based in the council's office in Missoula, the focus has been enlarged to serve not only small communities, but other Montana cities as well. While the initial development of arts organizations will continue to be a priority, additional emphasis is being placed upon assisting existing organizations to improve their management capabilities. This is crucial for the continued existence of high quality arts opportunities, because not only has the local and national economic picture become increasingly bleak, but competition for those scarce resources has become more intense. In order to serve their expanding constituencies, arts organizations will have to take a hard look at their program plans and fiscal and organizational operations. The Community Arts Program hopes to help them do this by preparing an arts organizations "survival manual;" the program also has available the servies of a C.P.A. who is familiar with the problems of non-profit fiscal management. In addition to providing basic information about council services, the program will continue to publish the *Community Arts Resource Directory*, and administer Underwriting Assistance for Small Communities.

Of special interest to the Community Arts Program are those projects which serve audiences who traditionally have not had access to the arts. This includes the handicapped, institutionalized, elderly, lower income groups, ethnic and racial minorities and residents of smaller, rural communities. As plans for energy and mineral development take shape in Montana, it is anticipated that the council will also focus on the special cultural needs of newly-created and existing towns affected by rapid population growth.

The Community Arts Program exists to serve the people of Montana. If residents of your community wish to discuss development of an arts program or if an ongoing arts group needs assistance, contact: Bill Pratt, Community Arts Coordinator, Montana Arts Council, 1280 S. 3rd W., Missoula, MT 59801, (telephone) 543-8286.

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